Amendment of the Water Services Regulations 2013
Consultation paper on proposed amendments

Securing Western Australia’s water future

Department of Water
March 2015
Department of Water
168 St Georges Terrace
Perth Western Australia 6000
Telephone +61 8 6364 7600
Facsimile +61 8 6364 7601
National Relay Service 13 36 77
www.water.wa.gov.au
© Government of Western Australia
March 2015

This work is copyright. You may download, display, print and reproduce
this material in unaltered form only (retaining this notice) for your personal, non-commercial use or use
within your organisation. Apart from any use as permitted under the Copyright Act 1968, all other
rights are reserved. Requests and inquiries concerning reproduction and rights should be addressed
to the Department of Water.

ISSN 978-1-925174-06-9 (online)

Disclaimer

This document has been published by the Department of Water. Any representation, statement,
opinion or advice expressed or implied in this publication is made in good faith and on the basis that
the Department of Water and its employees are not liable for any damage or loss whatsoever which
may occur as a result of action taken or not taken, as the case may be in respect of any
representation, statement, opinion or advice referred to herein. Professional advice should be
obtained before applying the information contained in this document to particular circumstances.

This publication is available at our website <www.water.wa.gov.au> or for those with special needs it
can be made available in alternative formats such as audio, large print, or Braille.
Contents

1 Introduction ........................................................................................................................................ 1
  1.1 Purpose of the consultation paper .................................................................................. 1
  1.2 Background .................................................................................................................... 1
  1.3 Invitation to comment ........................................................................................................ 1

2 Proposed amendments .............................................................................................................. 3
  2.1 Exempt works ................................................................................................................ 3
  2.2 Fire services .................................................................................................................. 4
  2.3 Damage to meter attachments ....................................................................................... 5
  2.4 Catchments and water service works .......................................................................... 5
  2.5 Form of infringement notice .......................................................................................... 6
  2.6 Diagrams of drainage plumbing .................................................................................. 7
  2.7 Water efficiency management plans ........................................................................... 8
  2.8 Hamersley Iron ............................................................................................................. 9

Appendices ........................................................................................................................................ 10
  Appendix A — List of licensed water service providers ....................................................... 10
  Appendix B — Infringement notice .................................................................................... 12
1 Introduction

1.1 Purpose of the consultation paper

This paper outlines the Department of Water’s proposed amendments to the Water Services Regulations 2013.

The proposed amendments have been compiled following a review of the Regulations and consultation with key stakeholders. The objective of this amendment process is to ensure the efficiency and effectiveness of the Regulations.

1.2 Background

1.2.1 Water services legislation

The Water Services Act 2012 was proclaimed in November 2013. It consolidates and modernises outdated and burdensome water services legislation into a single statute and represents a significant reduction in the regulatory burden on the water services industry.

The Water Services Regulations 2013 are subsidiary legislation of the Act and set out functional details for water service providers and government agencies for the management, regulation and governance of the water services industry.

1.2.2 Water industry

There are 33 licensed water service providers in Western Australia (see Appendix A) providing one or more types of water services including water supply (potable or non-potable water), sewerage, irrigation and drainage services.

There are three water corporations in Western Australia – the Water Corporation, Bunbury Water Corporation (Aqwest) and Busselton Water Corporation (Busselton Water). The Water Corporation is the largest water service provider in Western Australia, servicing metropolitan and regional areas.

Local governments are providing sewerage services and/or non-potable water services to regional areas. Of all the local governments providing a water service, the City of Kalgoorlie-Boulder is the largest sewerage service provider.

The Economic Regulation Authority is the regulator of licensed providers of water, gas and electricity services. It issues licences and monitors and enforces compliance with licence conditions and legislative requirements.

1.3 Invitation to comment

The Department of Water is seeking public comment on the proposed amendments to the Water Services Regulations 2013.

This paper will be released electronically to a selected group of stakeholders for a period of four weeks. It will also be published on the department’s website.
The department will consider all comments received and if necessary, consult further with relevant stakeholders on comments raised, before a final report is prepared for consideration by the Minister for Water.

Submissions should be addressed to:
Ms Lydia Kirke
A/Manager
Legislation and Legal Services
PO Box K822
PERTH WA 6842
Email: water.services@water.wa.gov.au

Submissions may be provided in hard copy or electronic format and must be received by 4pm (WST) Tuesday, 31 March 2015.

Should you require further information, please contact Ms Tammy Ng, Senior Policy Officer, on (08) 6364 6867.
2 Proposed amendments

2.1 Exempt works

Background

Water service providers or licensees undertake capital works for expansion and maintenance of existing works. Part 6 of the Water Services Act 2012 relates to water licensees’ powers in relation to water service works. Water service works can be classified into three different categories:

1. **Major works** (section 133 of the Act) are the provision of dams, reservoirs and water storage tanks with a capacity greater than 10 megalitres (ML) when constructed; groundwater schemes consisting of bores with a capacity greater than 10 ML per day when constructed; wastewater treatment plants and water treatment plants.

2. **General works** (section 134 of the Act) are the provision of trunk and distribution water mains, pumping stations, water and sewerage reticulation mains.

3. **Exempt works** (section 135 of the Act) are the provision or undertaking of works that are not major or general works including the maintenance and repair of existing water service works, replacement or reinstatement of existing works and the making of alterations, extensions or additions to land owned by the licensee or a reserve under the Land Administration Act 1997.

Under the Water Services Act 2012, a water licensee is required to provide notification about the proposed capital works and, in some cases, seek the Minister for Water’s approval prior to undertaking those works.

Specifically, a licensee is required to publish details of the proposed plans and make them available for inspection and give notification to the owners and occupiers adversely affected, relevant local government and the Western Australian Planning Commission. Any objections raised by stakeholders must be addressed by the licensee prior to seeking authorisation from the Minister for Water.

If the proposed works are classified as exempt works, the licensee can waive the requirement to consult and/or seek authorisation from the Minister.

Issues

Under the repealed section 86(b)(iii) of the Water Agencies (Powers) Act 1984, exempt works also included works that are ‘in, on, under or over Crown land or road reserves and required to link to other exempt works to existing works’. For example, reticulation works undertaken on Crown land or road reserves.

However, this was not carried over into the equivalent section of the Water Services Act 2012. As a result, licensees are required to undertake the preliminaries process for works that were previously exempt.
Proposed amendment 1

Section 135(1)(f) of the Water Services Act 2012 enables regulations to be made for water service works that are deemed to be exempt works for the purposes of that definition. It is proposed that works that are ‘in, on, under or over Crown land or road reserves and required to link to other exempt works to existing works’ are to be exempt from the preliminaries process.

2.2 Fire services

Background

Water supplied for a fire service is for the purpose of fire fighting and testing of fire fighting equipment. A licensee can impose a penalty under the Water Services Act 2012, section 89(1) for a person taking water from water service works without or contrary to approval.

Issues

There have been incidents of property owners misusing water from fire services for a purpose not relating to fire prevention – such as cleaning, washing trucks and hosing driveways – to avoid the need to pay the associated infrastructure and higher service charges.

Although there are penalty provisions associated with water taken without approval under the Act, it has been considered that issuing an infringement notice for the misuse of water from fire services will be easier to enforce and will act as a deterrent for potential offenders.

Under the repealed sections of the Metropolitan Water Supply Sewerage and Drainage By-laws 1981 (by-law 6.4) and the Country Areas Water Supply By-laws 1957 (by-law 98), there were specific obligations for the owner and occupier relating to the use of private fire services. Some of these obligations included:

- an occupier or owner being required to give notice to the licensee about broken seals affixed to hydrant valves and pay for the cost of repairing the seals
- water to be used strictly for the purpose of extinguishing fires or testing of the service.
Reinstate the provisions previously applied under the Metropolitan Water Supply Sewerage and Drainage By-laws 1981 (By-law 6.4) and the Country Areas Water Supply By-laws 1957 (By-law 98) and create a specific offence and penalty in relation to the misuse of fire services.

2.3 Damage to meter attachments

Background

Under the Water Services Regulations 2013, an owner or occupier of a property is responsible for notifying a licensee if he or she becomes aware that a meter connected to water service works is damaged or malfunctioning (Regulation 25). In addition, a licensee may recover the reasonable costs of repairing the meter.

Issues

With the increase in automated meter reading, devices such as remote sensors, pulse units and data loggers are now commonly attached to meters.

The definition of a meter found in the Water Services Act 2012 currently does not make reference to any electronic devices attached to the meters.

It is proposed that Regulation 25 will be amended to require an owner or occupier to notify the licensee in relation to the damage or malfunction of a meter or any devices which are attached to the meter by the licensee.

Similarly, the amendment should also include the ability of the licensee to recover costs of repairing a meter or devices attached to the meter by the licensee.

2.4 Catchments and water service works

Background

There are currently legislative provisions under the Water Services Regulations 2013 that protect the quality of drinking water. The Regulations prohibit a person from undertaking certain activities within the water supply works of a licensee or where the water supply works are located.

1 The definition of a meter under the Water Services Act 2012 means a device for measuring or estimating the quantity or flow of liquid passing through the device.
Under the *Water Services Act 2012*, the water service works of a licensee can include water supply works, sewerage works, drainage assets, plant, equipment, structures and buildings used by the licensee for the provision of water services.

Part 4, Division 4 of the Regulations state that a person must not enter, swim, bathe or wash in the water supply works of a licensee (Regulation 39), undertake camping or light fires (Regulation 40) or litter on land controlled by a licensee (Regulation 41).

Similarly, By-law 4 of the Metropolitan Water Supply Sewerage and Drainage By-laws 1981 prohibits certain activities in catchment areas or water reserves that are proclaimed for the purposes of protecting a public drinking water source.

**Issues**

Although there are provisions in both the Water Services Regulations 2013 and the Metropolitan Water Supply Sewerage and Drainage By-laws 1981 that protect water supply works and catchment areas, there are still public drinking water source areas that are not sufficiently protected by water services legislation and this presents a risk to public drinking water supply.

For example, a reservoir outside of a catchment area declared under the *Metropolitan Water Supply Sewerage and Drainage Act 1909*, is not covered by any existing legislation for the prohibition of certain activities within the water service works of a licensee. This makes prosecution by a licensee difficult.

**Proposed amendment 4**

It is proposed that regulations be created to provide additional controls to prohibit hunting, fishing, shooting and trapping on land on which water service works of a licensee are located except where signage indicates that this is permitted or where it has been authorised.

**2.5 Form of infringement notice**

**Background**

Division 2, Schedule 5 of the Water Services Regulations 2013 sets out a prescribed form for issuing an infringement notice. There are a number of prescribed offences and associated penalties set in the Regulations. These include the use of scheme water in contravention of the water use restrictions (Regulation 77), failure of licensed plumbers submitting drainage diagrams to water service providers (Regulation 53(2)) and failure to provide an adequate level of access to meters (Regulation 24).

The prescribed infringement form provides details on the name of the offender, the alleged offence, penalty and methods of payment.
Issue

Payments of an infringement can be made in a number ways including by cheque, money order or credit card. The form can be returned by post, in person or electronically.

Often, when an electronic payment is made, the form is not returned to the licensee.

Proposed amendment 5

A revised version of the prescribed infringement notice is provided in Appendix B to reflect the current practice.

2.6 Diagrams of drainage plumbing

Background

Under the Water Services Regulations 2013, a plumber is required to submit drainage plumbing diagrams to a licensee when installing or altering drainage plumbing works that are connected to the sewerage works of the licensee. This applies to a newly constructed property or where alterations have been made to an existing property (Regulation 53).

Drainage plumbing diagrams are provided by the relevant water service provider at a cost. These plans are normally requested by plumbers when undertaking maintenance work on existing plumbing or extensions to a building that is connected to the existing sewerage works. These plans also help the water service provider to deal with enquiries from the public.

Under the Regulations, there is a penalty for plumbers not complying with this requirement within a specific timeframe.

Issues

Water service providers claim that it is difficult to enforce this obligation. If these diagrams are not available, it could become a costly option for a plumber to hire equipment or use alternatives to track the sewerage works.

It is considered that the responsibility of submitting drainage plumbing plans to a water service provider should rest with the owners or builders.

Proposed amendment 6

An amendment is to be made to the Regulations to require the owners or builders who undertake building works to submit copies of drainage plumbing diagrams to the water licensees.
In addition, the owners or builders will be required to give notice to the licensee of the completion date of the building works within 14 days of completion.

### 2.7 Water efficiency management plans

#### Background

Part 3 of the *Water Agencies (Water Use) By-laws 2010* relates to scheme water efficiency management plans. Under the legislation, an owner or occupier of a non-residential lot that consumes more than 20 ML of water during a consumption year is required to provide such a plan. A plan is normally valid for five years unless it has been revised or a person has ceased to be an owner or occupier of the lot.

Part 3 of the By-laws prescribes the details on preparation, application and approval processes for the plans.

#### Issues

The Water Agencies (Water Use) By-laws 2010 are largely concerned with restrictions for domestic users of bore water. It is considered that Part 3 of the By-laws, which deal with scheme water efficiency management plans, would be better placed in the Water Services Regulations 2013.

**Proposed amendment 7**

Relocate Part 3 of the Water Agencies (Water Use) By-laws 2010, which addresses water efficiency management plans, into the Water Services Regulations 2013.

Minor amendments to Part 3 of the Water Agencies (Water Use) By-laws 2010 are proposed as follows:

<table>
<thead>
<tr>
<th>Section</th>
<th>Proposed Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>18</td>
<td>This by-law currently prescribes the information required in the scheme water efficiency management plan. In addition to the existing list of information required, it is proposed to include the water use industry benchmarks for a particular industry agreed between a customer and the scheme water supplier.</td>
</tr>
<tr>
<td>21(4)</td>
<td>Reduce the number of days for a customer to submit an amended scheme water efficiency water management plan from 60 to 30 days.</td>
</tr>
<tr>
<td>26</td>
<td>A customer is currently required to submit a revised scheme water management plan 90 days before the end of the current approval. It is proposed to change this requirement to 90 days after a customer receives notice in writing from the scheme water supplier.</td>
</tr>
<tr>
<td>29(1)</td>
<td>A customer must submit an annual report to the scheme water supplier on the efficacy of the scheme water efficiency management plan within 30 days of the anniversary of the approval. It is proposed that the due date for the annual report is to be negotiated with the scheme water supplier.</td>
</tr>
</tbody>
</table>
2.8 Hamersley Iron

Background

Hamersley Iron is licensed under the Water Services Act 2012 as a water service provider to provide water supply and sewerage service in three regional areas of Tom Price, Paraburdoo and Dampier. It also supplies bulk water to the West Pilbara Water Supply Scheme from the Bungaroo bore field.

Part 4 of the Water Services Regulations 2013 outline a licensee’s obligations, duties and powers relating to the provision of water services. It includes provisions on metering (Part 4, Division 2), protection of water service works and water quality (Part 4, Division 4, Subdivisions 1, 2 and 3) and taking water from fire hydrants (Part 4, Division 5).

Regulations 42 and 43 prescribe the requirements for the installation and maintenance of a backflow prevention device by the owner or occupier of a property.

Issues

Despite being a potable water service provider, Part 4 of the Regulations (with the exception of Division 3) currently applies to the three water corporations but not to Hamersley Iron.

Hamersley Iron has requested that relevant provisions under Part 4 of the Regulations be made available to them as a licensee. This would enable Hamersley Iron to undertake its duties and obligations and enforce obligations on the owners, occupiers and the public to protect water quality.

Proposed amendment 8

Part 4 of the Regulations to apply to Hamersley Iron, as appropriate.
Appendices

Appendix A.— List of licensed water service providers

Aquasol Pty Ltd
Aqwest – Bunbury Water Corporation
Busselton Water Corporation
City of Kalgoorlie-Boulder
Gascoyne Water Cooperative
Hamersley Iron Pty Ltd
Harvey Water (South West Irrigation Management Cooperative)
Moama Lifestyle Villages Pty Ltd
Ord Irrigation Cooperative
Peel Water Pty Ltd
Preston Valley Irrigation Cooperative
Rottnest Island Authority
Shire of Brookton
Shire of Coolgardie
Shire of Dalwallinu
Shire of Denmark
Shire of Dowerin
Shire of Dumbleyung
Shire of East Pilbara
Shire of Gnowangerup
Shire of Goomalling
Shire of Jerramungup
Shire of Kent
Shire of Koorda
Shire of Lake Grace
Shire of Moora
Shire of Morawa
Shire of Ravensthorpe
Shire of Victoria Plains
Shire of Wickepin
Shire of Yilgarn
Water Corporation
WA Sewerage Pty Ltd
## Appendix B.— Infringement notice

<table>
<thead>
<tr>
<th>Alleged offender</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td></td>
</tr>
<tr>
<td>Details of alleged offence</td>
<td>Date or period</td>
</tr>
<tr>
<td>Place</td>
<td></td>
</tr>
<tr>
<td>Written law contravened</td>
<td>*Section or Regulation of the Water Services Act 2012 or Water Services Regulations 2013</td>
</tr>
<tr>
<td>Details of offence</td>
<td></td>
</tr>
<tr>
<td>Date of issue</td>
<td>Date of issue</td>
</tr>
<tr>
<td>Issuing officer</td>
<td>Name</td>
</tr>
<tr>
<td>Office</td>
<td></td>
</tr>
<tr>
<td>Signature</td>
<td></td>
</tr>
<tr>
<td>Modified penalty</td>
<td>$</td>
</tr>
<tr>
<td>Penalty</td>
<td>Individual $</td>
</tr>
<tr>
<td></td>
<td>Body corporate $</td>
</tr>
<tr>
<td></td>
<td>You do not have to pay this amount. This is the maximum fine that can be imposed if you are prosecuted in a court and convicted of this offence.</td>
</tr>
</tbody>
</table>

**TAKE NOTICE**

It is alleged that you have committed the above offence.

**If you do not want to be prosecuted in court for the offence**, pay the modified penalty to an Approved Officer within 28 days after the date of this notice.

**If you do not pay** the modified penalty within the 28 days, you may be prosecuted or enforcement action may be taken under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*. Under that Act, some or all of the following actions may be taken — your driver’s licence may be suspended; your vehicle licence may be suspended or cancelled; your details may be published on a website; your vehicle may be immobilised or have its number plates removed; and your property may be seized and sold.

**If you need more time** to pay the modified penalty, you should contact the Approved Officer at the address below.

Paying the modified penalty will not be regarded as an admission for the purposes of any civil or criminal court case.
If you want this matter to be dealt with by prosecution in court, sign and date here:
__________________________________ / /20
and post this notice to the Approved Officer at the address below within 28 days after the
date of this notice.

If you consider that you have good reason to have this notice withdrawn, you can write to
the Approved Officer at the address below requesting that this notice be withdrawn and
setting out why you consider that this notice should be withdrawn. Your letter must be
received not later than 28 days after the date of this notice.

How to pay

Electronically

1. By BPAY

[ details ]

2. By Credit Card

[details]

By post

1. Send a cheque or money order to:

   Approved Officer – Water Services Act 2012
   [Address]

2. To post payment by credit card, complete the details below and post this notice to

   the Approved Officer – Water Services Act 2012 at the above address.

I want to pay the modified penalty by credit card. Please debit my credit card account,
as detailed below:

Card number:

Name Signature Date

In person

Pay the cashier at:

[ Address ]
Notes to Form —
1. The details should say what the alleged offender has done that is considered to be a contravention of the law.
2. Delete this option if not applicable.
3. Include here, when applicable, details of how a payment may be made electronically.